

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

JAMES O. JOHNSON,)	
)	
Movant,)	
)	
v.)	No. 1:17-CV-8 SNLJ
)	
UNITED STATES OF AMERICA,)	
)	
Respondent,)	

MEMORANDUM AND ORDER

James Johnson moves the Court to vacate, set aside, or correct sentence under 28 U.S.C. § 2255. The motion is denied. *See* 28 U.S.C. § 2255 Rule 4.

Movant pled guilty to felon in possession of a firearm, and the Court sentenced him to thirty months' imprisonment. *United States v. Johnson*, No. 1:16-CR-8 SNLJ. Movant did not appeal.

In the instant motion, movant argues that his counsel was ineffective for failing to argue during the sentencing hearing that his exemplary conduct during pretrial release warranted a downward departure. He asserts that he complied with all of the conditions required of him by the U.S. Probation and Pretrial Services, including avoiding using illegal substances. He says counsel was also aware that he self-surrendered to the Bureau of Prisons. He believes that if counsel had argued for a downward departure, the Court would have given him a reduced sentence.

Title 28 U.S.C. § 2255 provides relief for inmates

claiming the right to be released upon the ground that the sentence was imposed in violation of the Constitution or laws of the United States, or that the court was without jurisdiction to impose such sentence, or that the sentence was in excess of the maximum authorized by law, or is otherwise subject to collateral attack . . .

Movant is not seeking relief on any of these grounds. The fact that he complied with the law during pretrial release was merely the completion of his duty to the Court. His counsel was not ineffective for failing to argue that he should have received a downward departure on this ground. As a result, he is not entitled to habeas relief.

Finally, movant has failed to demonstrate that jurists of reason would find it debatable whether he is entitled to relief. Thus, the Court will not issue a certificate of appealability. 28 U.S.C. § 2253(c).


Accordingly,

IT IS HEREBY ORDERED that movant's motion to vacate, set aside, or correct sentence under 28 U.S.C. § 2255 is **DENIED**, and this action is **DISMISSED**.

IT IS FURTHER ORDERED that the Court will not issue a certificate of appealability.

An Order of Dismissal will be issued forthwith.

Dated this 19th day of January, 2017.



STEPHEN N. LIMBAUGH, JR.
UNITED STATES DISTRICT JUDGE